

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)	
to open a docket to implement the provisions of)	
Section 6w of 2016 PA 341 for)	Case No. U-18239
CONSUMERS ENERGY COMPANY'S)	
service territory.)	
_____)	
)	
In the matter, on the Commission's own motion,)	
to open a docket to implement the provisions of)	Case No. U-18248
Section 6w of 2016 PA 341 for)	
DTE ELECTRIC COMPANY'S service territory.)	
_____)	
)	
In the matter, on the Commission's own motion,)	
to open a docket to implement the provisions of)	Case No. U-18253
Section 6w of 2016 PA 341 for)	
UPPER MICHIGAN ENERGY RESOURCES)	
CORPORATION'S service territory.)	
_____)	
)	
In the matter, on the Commission's own motion,)	
to open a docket to implement the provisions of)	
Section 6w of 2016 PA 341 for)	Case No. U-18254
UPPER PENINSULA POWER COMPANY'S)	
service territory.)	
_____)	
)	
In the matter, on the Commission's own motion,)	
to open a docket to implement the provisions of)	Case No. U-18258
Section 6w of 2016 PA 341 for)	
CLOVERLAND ELECTRIC COOPERATIVE'S)	
service territory.)	
_____)	

At the February 28, 2017 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Norman J. Saari, Commissioner
Hon. Rachael A. Eubanks, Commissioner

ORDER CONCERNING IMPLEMENTATION OF SECTION 6W OF ACT 341 OF 2016

In separate orders issued on January 20, 2017, in Case Nos. U-18239 and U-18248 for Consumers Energy Company (Consumers) and DTE Electric Company (DTE Electric), respectively, (the January 20 orders) the Commission commenced proceedings for those utilities to implement a solution to the issue of a potential future electric resource adequacy shortfall in their service territories.¹ As a result of a regulatory proceeding then pending before the Federal Energy Regulatory Commission (FERC) and recent legislative changes approved by Michigan's Legislature,² three alternative solutions to long-term resource adequacy concerns facing the state of Michigan and the customers of Consumers and DTE Electric, including those served by alternative electric suppliers (AESs), appeared to be possible.³ The three alternative solutions are set forth in Section 6w(1) and 6w(2) of Act 341, and are as follows: (1) a three-year Forward Resource Auction (FRA) embodied within the Competitive Retail Solution (CRS) application filed

¹ See, the discussions regarding this state's long-term resource adequacy concerns contained in the January 20 orders and in the July 22, 2016 order in Case No. U-17992.

² See, Section 6w of 2016 PA 341 (Act 341).

³ The Commission noted that unanticipated resource adequacy shortfalls experienced by investor-owned utilities were not the sole source for concern. Indeed, the Commission has previously expressed a need to ensure that all load serving entities (LSEs), including AESs, would contribute to solving the long-term capacity needs of this state. See, the December 4, 2014 order in Case No. U-17523 and the July 23, 2015 order in Case No. U-17751.

on November 1, 2016 by the Midcontinent Independent System Operator, Inc. (MISO), that was contingent upon approval by the FERC; (2) a Prevailing State Compensation Mechanism (PSCM) that also required FERC approval; and (3) a State Reliability Mechanism (SRM).

On February 2, 2017, the FERC issued an order (the February 2 order) rejecting MISO's CRS tariff filing in Docket No. ER17-284-000. The FERC determined that the FRA proposed by MISO, which would apply to a small amount of load within MISO and would occur more than three years prior to MISO's existing Planning Resource Auction (PRA), would bifurcate the MISO capacity market. According to the FERC, "this bifurcated approach could have uncertain, and potentially adverse, impacts on price formation in both the [FRA] and the [PRA]." February 2, 2017 order, Docket No. ER17-284-000, p. 2. The FERC opined that such a bifurcated market could have a high potential for volatility and might not efficiently clear prices. The FERC stressed that no other FERC-jurisdictional wholesale capacity market clears capacity through use of two distinct market clearing mechanisms held at different points in time, adding that "[m]arket-wide clearing processes are typically more efficient than bifurcated clearing processes." February 2, 2017 order, Docket No. ER17-284-000, p. 3. The FERC also found that MISO had failed to completely explain how transmission constraints would be handled between the FRA and the PRA. February 2, 2017 order, Docket No. ER17-284-000, p. 4. The FERC did not expressly comment on the PSCM proposal that was set forth in MISO'S CRS filing. Notwithstanding, the Commission understands that the PSCM was also rejected in the February 2 order.

Given that the FERC has denied MISO's November 1, 2016 application, the scope of the proceedings and the schedules established by the January 20 orders applicable to Consumers and DTE Electric need to be revised. Specifically, because of the FERC's February 2 order, any further efforts by the Commission to implement Section 6w(1) of Act 341 may no longer be

required. Because the FERC rejected MISO's proposed CRS tariff, the Commission seeks input on whether Consumers and DTE Electric should be relieved of the requirement that the applications to be filed by these utilities in Case Nos. U-18239 and U-18248 include testimony and exhibits regarding "[w]hether the capacity mechanisms described in Sections 6w(1) and (2) of Act 341 are more cost-effective, reasonable, and prudent than MISO's FRA." January 20 orders, p. 6. If the scope of these proceedings were limited in this manner, the focus of these proceedings would be solely on the requirements of Section 6w(2) of Act 341, which provides:

If the appropriate independent system operator receives approval from the Federal Energy Regulatory Commission to implement a resource adequacy tariff that provides for a capacity forward auction, and does not include the option for a state to implement a prevailing state compensation mechanism for capacity, then the commission shall examine whether a state reliability mechanism established under subsection (8) would be more cost-effective, reasonable, and prudent than the capacity forward auction for this state before the commission may order the state reliability mechanism to be implemented in any utility service territory. Before the commission orders the implementation of the state reliability mechanism in 1 or more utility service territories, the commission shall hold a contested case hearing pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. The commission shall allow intervention by interested persons, alternative electric suppliers, and customers of alternative electric suppliers and the utility under consideration. At the conclusion of the proceeding, the commission shall make a finding for each utility service territory under consideration, based on clear and convincing evidence, as to whether or not the state reliability mechanism would be more cost-effective, reasonable, and prudent than the use of the capacity forward auction for this state in meeting the local clearing requirement and the planning reserve margin requirement. The contested case must be scheduled for completion by December 1 before the independent system operator's capacity forward auction for this state, and the commission's decision shall identify which utility service territories will be subject to the state reliability mechanism. If, by September 30, 2017, the Federal Energy Regulatory Commission does not put into effect a resource adequacy tariff that includes a capacity forward auction or a prevailing state compensation mechanism, then the commission shall establish a state reliability mechanism under subsection (8). The commission may commence a proceeding before October 1 if the commission believes orderly administration would be enabled by doing so. If the commission implements a state reliability mechanism, it shall be for a minimum of 4 consecutive planning years beginning in the upcoming planning year. A state reliability charge must be established in the same manner as a capacity charge under subsection (3) and be determined consistent with subsection (8). (Emphasis added).

Additionally, until the Commission is able to assess the implications of the FERC's February 2 order and whether the auction and/or the PSCM are still viable, the Commission finds that the

schedules set in the January 20 orders for Consumers and DTE Electric should be temporarily suspended. Originally, the January 20 orders required Consumers and DTE Electric to file applications in their respective dockets on March 3, 2017. Today's order relieves Consumers and DTE Electric of having to file applications on March 3, 2017, cancels the filing deadline for petitions to intervene that was scheduled for March 10, 2017, and also cancels the separate prehearing conferences for Consumers and DTE Electric scheduled for March 16, 2017. Once the Commission has had a chance to further evaluate the implications from the FERC's February 2 order, the Commission intends to issue another scheduling order for all of the captioned proceedings.

Unlike the January 20 orders, this order contains captions for Upper Michigan Energy Resources Corporation (UMERC), Upper Peninsula Power Company (UPPCo), and Cloverland Electric Cooperative (Cloverland), each of which currently serves or has choice customers enrolled for service. Case No. U-18253 is being opened for UMEREC. Case No. U-18254 is being opened for UPPCo. And, Case No. U-18258 is being opened for Cloverland. The January 20 orders did not apply to UMEREC, UPPCo, or Cloverland because the application filed in Docket No. ER17-284-000 by MISO for approval of its CRS included provisions that would have exempted the choice loads of the utilities serving customers in Michigan's Upper Peninsula because those loads did not meet MISO's materiality threshold. However, nothing in Section 6w(2) of Act 341 excludes any AES loads in Michigan from operation of the SRM. Accordingly, the Commission seeks comment on whether to move forward at this time to establish an SRM for these utilities.

The Commission has opted to briefly refrain from re-scheduling the proceedings for Consumers and DTE Electric or establishing schedules for the proceedings applicable to UMEREC,

UPPCo, and Cloverland in order to allow a limited opportunity for the Commission Staff (Staff), the affected utilities, and other interested persons to comment on the scope of these proceedings and the associated schedules in light of the FERC's decision and the potential shift in the focus away from Section 6w(1) towards Section 6w(2) of Act 341. Toward this end, the Commission will entertain comments filed in these dockets by the Staff, the affected utilities, and other interested persons on the future course of these proceedings until 5:00 p.m. on March 7, 2017.

Finally, because each of these cases is required by Act 341 to be processed as a contested case proceeding, the Commission encourages potential intervenors to begin filing their petitions to intervene in these dockets.

THEREFORE, IT IS ORDERED that:

A. The Commission's Executive Secretary shall electronically serve copies of this order on Consumers Energy Company, DTE Electric Company, Upper Michigan Energy Resources Corporation, Upper Peninsula Power Company, Cloverland Electric Cooperative, Energy Michigan, the Association of Businesses Advocating Tariff Equity, the Retail Energy Supply Association, and on every licensed alternative electric supplier in Michigan.

B. The schedules for the proceedings established for Consumers Energy Company and DTE Electric Company in the January 20, 2017 orders in Case Nos. U-18239 and U-18248, respectively, are suspended as more fully set forth in the order.

C. The Commission Staff, Consumers Energy Company, DTE Electric Company, Upper Michigan Energy Resources Corporation, Upper Peninsula Power Company, Cloverland Electric Cooperative, and other interested persons shall have until 5:00 p.m. on March 7, 2017, to file recommendations in the captioned dockets regarding the scope and the associated schedules for

these proceedings in light of the Federal Energy Regulatory Commission's decision and the potential shift in the focus away from Section 6w(1) towards Section 6w(2) of Act 341 of 2016.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

Sally A. Talberg, Chairman

Norman J. Saari, Commissioner

Rachael A. Eubanks, Commissioner

By its action of February 28, 2017.

Kavita Kale, Executive Secretary